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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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*Ex parte* JOS MANUEL ACCAPADI, MATTHEW ACCAPADI,
WILLIAM LEE BRITTON, ANDREW DUNSHEA, and DIRK MICHEL

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Appeal 2009-010755
Application 10/782,668
Technology Center 2100

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Before JAMESON LEE, KARL D. EASTHOM, and
JEFFREY B. ROBERTSON, *Administrative Patent Judges*.

ROBERTSON, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final decision rejecting claims 1-16. We have jurisdiction pursuant to 35 U.S.C. § 6(b).

We REVERSE.

## THE INVENTION

Appellants' invention relates to data processing, and more specifically, methods, systems, and products for user defined preferred domain name system (DNS) routing. (Spec. 1, ll. 15-16.)

Claims 1 and 2, reproduced below, are representative of the subject matter on appeal (emphasis added).

> 1. A method of user defined preferred DNS routing, the method comprising:
>
> mapping for a user in a data communications application a domain name of a network host to a DNS network address for a preferred DNS server, wherein the preferred DNS server has a host network address for the domain name, and *wherein mapping the domain name to the DNS network address for the preferred DNS server further comprises receiving from a user the domain name for the network host having the domain name registered on the preferred DNS server and receiving from the user the DNS network address for the preferred DNS server*;
>
> receiving from the user a request for access to a resource accessible through the network host; and
>
> routing to the preferred DNS server a DNS request for the host network address of the network host, the DNS request including the domain name of the network host.
>
> 2. The method of claim 1 wherein mapping a domain name to a DNS network address for a preferred DNS server further

> comprises associating, through the data communication application, an identifier for the user with the domain name and with the DNS network address for a preferred DNS server in a table in computer memory, *the table capable of supporting many-to-many relationships between user identifiers, domain names, and DNS network addresses for preferred DNS servers.*

(Appeal Brief Claim Appendix, filed September 10, 2008, "Claim App'x" 17.)

## THE REJECTIONS

The Examiner rejected the claims as follows:

1. Claims 2, 8, and 14 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. (Final Rejection mailed April 24, 2008, "Final" 2; Examiner's Corrected Answer entered April 14, 2009, "Ans." 3.)

2. Claims 1-16 under 35 U.S.C. § 103(a) as being unpatentable over McCanne (US 6,785,704, issued August 31, 2004) in view of Ferreria et al. (US 6,857,009, issued February 15, 2005). (Final 3-6; Ans. 3-6.)

## ISSUES

The dispositive issues on appeal are:

Were Appellants in possession, as of the filing date of the instant application, of a "table capable of supporting many-to-many relationships between user identifiers, domain names, and DNS network addresses for preferred DNS servers," as recited in claim 2?

Did the Examiner err in determining that McCanne either alone or in view of Ferreria renders obvious "mapping the domain name to the DNS network address for the preferred DNS server further comprises receiving

from a user the domain name for the network host having the domain name registered on the preferred DNS server and receiving from the user the DNS network address for the preferred DNS server," as recited in claim 1?

## PRINCIPLES OF LAW

35 U.S.C. § 112 states "[t]he specification shall contain a written description of the invention . . . ." The "test for sufficiency is whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date." *Ariad Pharmaceuticals, Inc. v. Eli Lilly and Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010).

"'[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.'" *KSR Int'l. Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007), quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

## ANALYSIS

*35 U.S.C. § 112 Issue*

Appellants contend that the Specification includes a table that illustrates a mapping of many-to-many relationships between users, domain names, and DNS network addresses for preferred DNS servers. (Br. 6, citing Spec. 11-12, Table 1.) Appellants argue that this table illustrates a complex association between user identities and domain names or user identities and DNS network addresses for preferred DNS servers, which

satisfies the definition of a many-to-many relationship.[1] (Br. 6.) We agree with Appellants.

The Examiner's position that the Specification only discloses, at best, "a many-to-one relationship among users to a preferred DNS server network address" because "it is unclear if different users could connect to a common preferred DNS server network address" (Ans. 8.) unnecessarily focuses on the specific contents of Table 1 and fails to take into consideration what Table 1, along with the remainder of the disclosure, would reasonably convey to a person of ordinary skill in the art. *Cf. Crown Packaging Tech., Inc. v. Ball Metal Beverage Container Corp.*, No. 2010-1020, 2011 WL 1204351, *6 (Fed. Cir. April 1, 2011) (citing *Lampi Corp. v. Am. Power Prods.*, 228 F.3d 1365, 1378 (Fed. Cir. 2000) (concluding that the embodiment drawings did not compel a conclusion that the written description is so narrowly tailored to be limited to the embodiments depicted in the drawings). Indeed, Appellants' Specification elaborates on Table 1 by stating that "various embodiments of the present invention use any number of DNS entries as will be found useful by user or as will occur to those of skill in the art" (Spec. 13, ll. 3-5.) Thus, a skilled artisan would have appreciated from Appellants' Specification that many preferred DNS server network addresses could be associated with many domain names or user identifiers. Therefore, Table 1 and the accompanying disclosure reasonably convey that Appellants were in possession of a table capable of supporting many-to-many relationships as recited in claim 2.

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[1] Appellants' undisputed definition of "many-to-many relationship" is "a complex association between two sets of parameters in which many parameters of each set can relate to many others in a second set." (Br. 6, citing *Microsoft Computer Dictionary* (5th Edition, 2002), page 328.)

*35 U.S.C §103 Issue*

Appellants argue that neither McCanne nor Ferreria disclose a user-specified DNS server for resolving a domain name for a particular network host. (Br. 7.) We again agree with Appellants.

Regarding McCanne, the Examiner states that "a DNS server corresponds to a user's request is no different than a preferred DNS server as specified by a user." (Ans. 10.) However, we agree with Appellants that McCanne discloses resolving a single domain name but does not disclose that the domain name is mapped to a network address for a preferred DNS server specified by the user. (Br. 11; McCanne, last five lines of Abstract.) The Examiner has not provided sufficient support for the position that the mere existence of a DNS request necessarily includes mapping for a user in a data communications application a user-specified domain name of a network host to a user-specified preferred DNS network address.

The Examiner further states that McCanne discloses "a user N3 could utilize a preferred DNS server S1 in particular when making a request for services." (Ans. 10.) However, N3* represents an APAR-DNS server (McCanne, col. 17, ll. 60-62.), while S1 represents a content server (McCanne, col. 18, ll. 59-60.) The Examiner appears to incorrectly equate N3* with a user in a data communications application and S1 with a preferred DNS server. (Ans. 10.)

Accordingly, the Examiner has not provided sufficient rationale to support a determination that the request for domain name resolution or the particular DNS server configuration disclosed in McCanne would render

obvious mapping, in a data communications application, a user-specified domain name to a user-specified, preferred DNS server.

Regarding Ferreria, we agree with Appellants that Ferreria's disclosure of redirecting a client's DNS request from one DNS server to another does not disclose a user-specified domain name mapped to a user-specified DNS server network address in a data communications application. (Br. 7.) Rather, Ferreria discloses a client specified proxy server and DNS redirection transparently provided to the client. (Col. 3, ll. 30-32, 52-54.) Neither the client specified proxy server nor DNS redirection of Ferreria allows the user to specify, in a data communications application, a preferred DNS network address for a particular domain. The Examiner has not provided any persuasive evidence that Ferreria's proxy service or DNS redirection discloses user-specified domain name and preferred DNS server requests in a data communications application. As a result, the Examiner has not provided sufficient rationale to support a determination that the proxy service or DNS redirection disclosed in Ferreria would render obvious mapping, in a data communications application, a user-specified domain name to a user-specified, preferred DNS server.

Thus, we cannot sustain the Examiner's positions that McCanne alone (Ans. 10) or McCanne in view of Ferreria (Final 4-5) discloses the limitation in dispute.

## CONCLUSION

Appellants were in possession, as of the filing date of the instant application, of a "table capable of supporting many-to-many relationships between user identifiers, domain names, and DNS network addresses for preferred DNS servers," as recited in claim 2.

The Examiner erred in determining that McCanne either alone or in view of Ferreria renders obvious "mapping the domain name to the DNS network address for the preferred DNS server further comprises receiving from a user the domain name for the network host having the domain name registered on the preferred DNS server and receiving from the user the DNS network address for the preferred DNS server," as recited in claim 1.

ORDER

We reverse the Examiner's decision rejecting claims 2, 8, and 14 under 35 U.S.C. § 112, first paragraph

We also reverse the Examiner's decision rejecting claims 1-16 under 35 U.S.C. § 103(a).

REVERSED

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